

ASSEMBLY BILL

No. 896

Introduced by Assembly Member Diaz

February 20, 2003

An act to amend Sections 20039 and 20322 of the Government Code, relating to public employees' retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 896, as introduced, Diaz. Public employees' retirement benefits.

Under the Public Employees' Retirement Law, retirement benefits are based in part on final compensation. For certain local members elected or appointed to a city council or county board of supervisors, final compensation is based on the highest average annual compensation earnable by the member during the period of state service in elective office.

This bill would revise that provision so that it applies to: (1) other elective or appointive officers who were excluded from membership between certain dates, and (2) other members elected or appointed to service on a public commission, board, council, or similar legislative or administrative body of a contracting agency, as specified. The bill would also authorize specified elective and appointive officers, who were previously excluded from membership, to elect to receive service credit for their previously excluded service by making the required contributions for that service. Contributions are deposited in the Public Employees' Retirement Fund, a continuously appropriated fund. By increasing member contributions to that fund, this bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20039 of the Government Code is
2 amended to read:

3 20039. (a) Notwithstanding any other provision of this part,
4 “final compensation” of a local member for the purpose of
5 determining any pension or benefit resulting from state service as
6 an elective or ~~appointed~~ *appointive* officer ~~on a city council or a~~
7 ~~county board of supervisors~~ accrued while in membership
8 pursuant to Section 20322, shall be based on the highest average
9 annual compensation earnable by the member during the period of
10 state service in each elective or ~~appointed~~ *appointive* office.

11 ~~Where~~ *If* that elective or ~~appointed~~ *appointive* service is a
12 consideration in the computation of any pension or benefit, the
13 member may have more than one final compensation.

14 (b) This section shall apply to a local member first elected or
15 appointed to a city council or a county board of supervisors on or
16 after July 1, 1994, or elected or appointed to a term of office not
17 consecutive with the term of office held on June 30, 1994.

18 (c) *This section shall apply to any elective or appointive officer*
19 *who was excluded from membership between July 1, 1994, and*
20 *January 1, 2004, pursuant to subdivision (c) of Section 20322, as*
21 *it read on December 31, 2003, and who elects membership*
22 *pursuant to Section 20322 on or after January 1, 2004.*

23 (d) *This section shall apply to a member first elected or*
24 *appointed to service on a public commission, board, council, or*
25 *similar legislative or administrative body of a contracting agency,*
26 *other than a city or county, on or after January 1, 2004, or elected*
27 *or appointed to a term of office not consecutive with the term of*
28 *office held on December 31, 2003.*

29 SEC. 2. Section 20322 of the Government Code is amended
30 to read:

31 20322. (a) An elective or *appointive* officer is excluded from
32 membership in this system unless the officer files with the board
33 an election in writing to become a member. Upon electing to
34 become a member, the officer may further elect at any time prior
35 to retirement to receive service credit for his or her prior, excluded

service by making the contributions as specified in Sections 21050 and 21051.

(b) As used in this part, “elective officer” includes any officer of the Senate or Assembly who is elected by vote of the members of either or both of the houses of the Legislature, and any appointive officer ~~of a city or county occupying a fixed term of office~~, as well as officers of the state or contracting agencies elected by the people, and persons elected to a city council or a county board of supervisors. *As used in this part, “appointive officer” means any appointed officer of a city or county occupying a fixed term of office.*

(c) Notwithstanding any other provision of subdivision (a) or (b), ~~elective or appointed~~ *appointive* officers of a county superintendent of schools, school district, or community college district, ~~or of a contracting agency~~, who serve on public commissions, boards, councils, or similar legislative or administrative bodies are excluded from membership in this system. This exclusion shall only apply to those ~~elective or appointed~~ *appointive* officers, ~~other than city or county officers~~, who are first elected or appointed to an office on or after July 1, 1994, or who are elected or appointed to a term of office not consecutive with the term of office held on June 30, 1994. ~~For city or county elected or appointed officers, this exclusion shall only apply to those officers who are first elected or appointed to an office on or after January 1, 1997, or who are elected or appointed to a term of office not consecutive with the term of office held on December 31, 1996. This exclusion shall not apply to persons elected to a city council or county board of supervisors.~~

(d) *On or after January 1, 2004, elective and appointive officers of a contracting agency who were previously excluded from membership in this system under subdivision (c), as it read on December 31, 2003, may elect to receive service credit for their previously excluded service as follows:*

(1) *An elective or appointive officer described in subdivision (b) who elects to become a member of the system on or after January 1, 2004, may further elect pursuant to subdivision (a) to receive service credit for his or her previously excluded service.*

(2) *An appointive officer not described in subdivision (b) who becomes a member of the system on or after January 1, 2004, may*

1 *elect, pursuant to Section 21020, to receive service credit for his*
2 *or her previously excluded service.*

3 *(3) Notwithstanding this service credit election or any other*
4 *provision of this part, the effective date of membership applicable*
5 *to an elective or appointive officer described in this subdivision*
6 *may not be prior to January 1, 2004.*

7 *(e) Any person holding the office of city attorney or the office*
8 *of assistant city attorney, whether employed, appointed, or elected,*
9 *is excluded from the definition of “elective officer” or*
10 *“appointive officer” as defined in subdivision (b). This*
11 *subdivision shall apply only to persons first employed, elected, or*
12 *appointed on or after July 1, 1994, or following any break in state*
13 *service while serving in the office if the office was held on June*
14 *30, 1994.*

15 ~~(e)~~

16 *(f) In accordance with Section 20125, the board shall be the*
17 *sole judge of which elected or appointed positions qualify the*
18 *incumbent as an “elective officer” or “appointive officer” in this*
19 *system under this section.*

20 ~~(f)~~

21 *(g) Notwithstanding any other provision of law, with respect to*
22 *elective or appointive officers of contracting agencies, payment*
23 *by a contracting agency of employer contributions and any other*
24 *amounts for employer paid benefits under this system shall may*
25 *not be construed as receipt of salary or compensation by the*
26 *elective or appointive officer for purposes of any statutory salary*
27 *or compensation limitation.*

28 *(h) On or after January 1, 2004, this section may not apply to*
29 *any contracting agency other than a city or county nor to the*
30 *employees of a contracting agency other than a city or a county*
31 *until the agency elects to be subject to this section by contract or*
32 *by amendment to its contract made in the manner prescribed for*
33 *approval of contracts.*

